

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/265,119	PERI ET AL.	
	Examiner	Art Unit	
	Ayal I Sharon	2123	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

- This communication is responsive to Response filed 12/27/04.
- The allowed claim(s) is/are 1-8 and 10-27 as presented on 6/30/04.
- The drawings filed on 09 March 1999 are accepted by the Examiner.
- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - All
  - Some\*
  - None
 of the:
  - Certified copies of the priority documents have been received.
  - Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

- A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
- CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
- DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- Notice of References Cited (PTO-892)
- Notice of Draftsperson's Patent Drawing Review (PTO-948)
- Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
- Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
- Notice of Informal Patent Application (PTO-152)
- Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
- Examiner's Amendment/Comment
- Examiner's Statement of Reasons for Allowance
- Other \_\_\_\_\_.

*Kevin J. Teska*  
KEVIN J. TESKA  
SUPERVISORY  
PATENT EXAMINER

## **DETAILED ACTION**

### ***Introduction***

1. This communication is in response to Applicant's After-Final Response filed on 12/27/2004. No claims were amended, added, or cancelled. Claims 1-8 and 10-27 are pending.

### ***Examiner's Reasons for Allowance***

2. Claims 1-8, and 21-27 were allowed in the previous Office Action, dated 10/26/2004. The detailed reasons for allowance of these claims can be found on pages 7-10 of that Office Action.
3. Claims 10-12 and 16 were rejected in the previous Office Action, and their dependent Claims 13-15 were indicated as having allowable subject matter. In Applicant's response to the rejections of Claims 10-12 and 16, filed on 12/27/04, Applicants have perfected the priority of the present application back to September 20, 1998 based on the filing date of the priority document, European application No. 98203302.9.
4. The reference cited in the 35 U.S.C. §102(e) rejections of the claims, U.S. Patent No. 6,275,960 to Cappelletti et al. ("Cappelletti") has a U.S. filing date of December 16, 1998. This is subsequent to the priority filing date of the present application.

5. Moreover, the Cappelletti reference's priority filing date, due to European application No. 97830693, does not qualify as a priority date under 35 U.S.C. §102(e) because a European application is not an "international application" (PCT).
6. Examiner has withdrawn the rejections based on the Cappelletti reference due to the perfection of the priority claim of the present application. Claims 10-16 are therefore allowed.

***Correspondence Information***

Any comments considered necessary by Applicants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ayal I. Sharon whose telephone number is (703) 306-0297. The examiner can normally be reached on Monday through Thursday, and the first Friday of a biweek, 8:30 am – 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Teska can be reached on (703) 305-9704. Any response to this office action should be mailed to:

Director of Patents and Trademarks  
Washington, DC 20231

Hand-delivered responses should be brought to the following office:

Art Unit: 2123

4<sup>th</sup> floor receptionist's office  
Crystal Park 2  
2121 Crystal Drive  
Arlington, VA

The fax phone number for the organization where this application or proceeding  
is assigned is:

All communications: (703) 872-9306

Any inquiry of a general nature or relating to the status of this application  
or proceeding should be directed to the receptionist, whose telephone number is:  
(703) 305-3900.

Ayal I. Sharon

Art Unit 2123

January 13, 2005



KEVIN J. TESKA  
SUPERVISORY  
PATENT EXAMINER